



## **Seattle Human Rights Commission**

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August 8, 2014

EPA Administrator Gina McCarthy  
USEPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

RE: Human Rights and Rule Changes for Water Quality Standards in Washington State

Dear Administrator McCarthy,

We are writing on behalf of the Seattle Human Rights Commission to express our support of the U.S. Environmental Protection Agency's (the "EPA") efforts to ensure that the State of Washington's (the "State") fish consumption rate is set to a higher, more protective value and that its cancer risk rate is kept steady at the protective level of  $10^{-6}$ . In particular, we commend the actions of EPA Regional Administrator Dennis J. McLerran, who continues to hold firm on the position that the State of Washington must retain the protective cancer risk level of  $10^{-6}$  for purposes of ensuring that the State's water quality standards protect the State's fish consumers at a level that is reflective of realistic regional fish consumption rates and that is protective of *all* fish consumers in our State. This would be in keeping with human rights principles that protect the right of all peoples to health, and to live in environments that enable health. It would also be in keeping with human rights principles that protect the right of indigenous peoples to practice a subsistence lifestyle, to preserve their traditions, and to enforce their treaties.

As you are well aware, Governor Jay Inslee recently issued a recommendation to the Washington State Department of Ecology to set a new fish consumption rate that we agree will be far more protective of Washingtonians, and we are thankful to the Governor for that. However, the Governor also recommended that the cancer risk level be dropped from 1 in 1,000,000 to 1 in 100,000. This proposal ignores the reality of many fish consumers in the State, and puts certain Washingtonians at a particularly heightened risk for exposure to unsafe levels of methyl mercury, PCBs and arsenic, among other harmful pollutants.

For example, Native Americans and Asian and Pacific Islanders—who as a matter of putting food on their family's tables, of practicing their traditions and culture, and (in the case of some tribal members) of exercising their treaty-protected subsistence rights—consume fish at a much higher rate than other segments of the population in our State. For example, Region 10 of the EPA has found that tribal members consume approximately 147 pounds of salmon, 68 pounds of other fish, and 400 pounds of shellfish per year (based on data from the Suquamish Tribe). The Spokane Tribe has set its fish consumption rate to 865 g/day to reflect and protect the large

volumes of fish its members consume. Members of Asian and Pacific Islander communities in our State consume fish at a rate of 306 g/day (based on a recent survey).

Given this data, a cancer risk level of 1 in 100,000 (or  $10^{-5}$ ) effectively punishes indigenous communities in our State for practicing their human rights to subsistence and culture. For tribal members with treaty-reserved fish harvest rights, the proposed cancer risk level also violates their human right to have their treaties enforced. The proposed cancer risk level also places the Asian and Pacific Islander communities of our State, as well as our indigenous communities (especially tribal subsistence harvesters), at a disproportionately high health risk in violation of their human rights to health and to conditions that protect their health. The State's current cancer risk level offers a level of protection that would support the human rights of all Washingtonians and it accordingly should not be decreased by an order of magnitude as recommended by the Governor.

Health and access to the conditions that promote health are inherent human rights outlined in international human rights instruments. For example, Article 12 of the International Covenant on Economic, Social, and Cultural Rights recognizes that all peoples have the right to health, and to live in environments that enable health. Article 20(1) of the U.N. Declaration on the Rights of Indigenous Peoples (the "Declaration") additionally recognizes that "Indigenous peoples have the right . . . to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities." Article 37(1) of the Declaration also recognizes that "[i]ndigenous peoples have the right to the recognition, observance and enforcement of treaties."

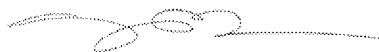
We hope that you will do what you can to ensure that the State's current cancer risk level of  $10^{-6}$  will continue to protect the health and welfare and the human rights of all who live in our State. Thank you for your leadership on this most important issue, and thank you for supporting the work of Mr. McLerran, whose actions show that he is truly acting in the best interest of all Washingtonians.

Thank you,



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Sarah Bishop, Co-Chair



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Ethel Branch, Co-Chair

Cc: Patty Lally, Director, Seattle Office for Civil Rights